

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:22-cr-122
:
JULIO R. SOTOMAYOR, : July 21, 2022
:
Defendant. :
-----x.

TRANSCRIPT OF Arraignment hearing
BEFORE THE HONORABLE ROSSIE D. ALSTON, JR.
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

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P R O C E E D I N G S

(Court proceedings commenced at 10:13 a.m.)

THE COURTROOM CLERK: Criminal No. 2022-122. United States of America versus Julio Sotomayor.

MR. SULLIVAN: Good morning, Your Honor. Edward Sullivan and Heidi Gesch for the United States.

THE COURT: Good morning.

MS. GESCH: Good morning.

MR. PEASE: Good morning, Your Honor. John Pease and Jonathan York on behalf of the defendant, Mr. Sotomayor.

THE COURT: Good morning, sir. As I always do at the beginning of any docket is I try to, as best as I can, explain the protocols in place while we're working our way through the pandemic of 2019.

Counsel, if you're fully vaccinated, you can address the Court without the benefit of the masks, if you're comfortable doing so. If you would prefer to wear a mask, that's fine too. I will note that sometimes it's a little difficult for the court reporter to understand people when you're speaking through a mask. So you can do what you like, but feel comfortable not wearing a mask. I think we're in pretty good shape. Everyone has followed the attestations indicating that they've met the requirements of the general orders of the Eastern District of Virginia regarding vaccination and masks.

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1 As I understand, there's a few things that we need
2 to do before we actually get into the substantive matters.
3 There's a pro hac vice motion, I believe, that has been filed.

4 MR. YORK: Yes, Your Honor, that's correct.

5 THE COURT: Okay. And are you the person filing the
6 motion or are you the person who is the beneficiary of the
7 motion?

8 MR. YORK: I am filing the motion, Your Honor.

9 THE COURT: Okay. Is there any objection by the
10 government?

11 MR. SULLIVAN: No, Your Honor.

12 THE COURT: As I understand the rules, sir, the
13 responsibility for you is to be present with the pro hac vice
14 admittee anytime that he's before the Eastern District of
15 Virginia, not because I believe that this particular
16 individual is incompetent or incapable of representing its
17 client, but those are the rules. And so, we try to adhere to
18 the rules.

19 So it would be the preference of the Court that
20 anything that he files or anything that he does or any
21 appearance that he makes in court, that you're here with him.
22 Not to hold his hand but to be support for him as he works his
23 way through the rocket docket.

24 MR. YORK: Absolutely.

25 THE COURT: Very good. All right. That motion will

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1 be granted.

2 We need to go ahead and formally arraign
3 Mr. Sotomayor. Do you want your client formally arraigned?

4 MR. PEASE: Your Honor, we're prepared, we read the
5 indictment. We're prepared to enter a plea of not guilty.

6 THE COURT: Okay. Very good.

7 Mr. Sotomayor, there's an indication through your
8 counsel that he does not want to have you formally arraigned.
9 Formally arraigned is essentially me telling you what the
10 charges are against you and the punishment that could incur if
11 you're found guilty of the offense, but I'm sure that your
12 counsel has gone over all of that with you and that you
13 understand the proceeding.

14 And he says that you want to waive formal
15 arraignment, is that your desire, sir?

16 THE DEFENDANT: Yes.

17 THE COURT: Thank you, sir.

18 THE DEFENDANT: Thank you, sir.

19 THE COURT: All right. The Court is granting the
20 motion for pro hac vice, so, granted.

21 All right. We need to go ahead and set this matter
22 for trial. Have you all spoken about how long it will take
23 you to present the matter?

24 MR. SULLIVAN: Your Honor, we haven't had a chance
25 to confer specifically about the duration of the government's

1 case, but I would anticipate a week or two, at most, subject
2 to the stipulations to try to expedite and accelerate this
3 into a one-week trial.

4 THE COURT: How many witnesses do you anticipate?

5 MR. SULLIVAN: Right now I would say roughly 10 to
6 12. So I think it could be done shorter, in a relatively
7 shorter amount of time.

8 THE COURT: Let me give you a factor that you might
9 not be aware of. This Court has had the opportunity to
10 resolve several criminal matters, even during the pandemic,
11 and we've come up with a process or a protocol which
12 streamlines the voir dire process significantly. And I think
13 the longest that this Court has taken to seat a jury, and I
14 make reference, again, to a case I did just two weeks ago, is
15 about two hours for voir dire. We get it done in two hours.
16 And I think it's a benefit of the questionnaire that we send
17 out in advance of the trial basically pairing down the people
18 who just don't want to be here because of their concerns about
19 the pandemic. So we've done a really good job getting through
20 the voir dire process. And so, we were able to get through
21 the voir dire process in three hours and be able to start the
22 trial on the same day as far as opening statements and the
23 like.

24 How long would you anticipate, about a week?

25 MR. SULLIVAN: Again, I think it would be, roughly,

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1 maybe four days or so to present the government's case. So
2 all together a week with some flexibility because we have not
3 talked about stipulations or things that would streamline a
4 fairly document intensive case.

5 THE COURT: Counsel, what do you think on your side
6 of the ledger, how long do you think you're going to need for
7 your witnesses?

8 MR. PEASE: Your Honor, it's very difficult right
9 now to determine the extent of which we're going to have any
10 witnesses at trial. We expect we will. But, you know, if I
11 had to -- if you had to push me right now, I would say a day.

12 THE COURT: That's fair. I'm just trying to sort of
13 get a sense for the Court's docket and how I can sort of
14 schedule things around what we need to do in this case.
15 Obviously, we'll take the time that we need to get it done.

16 MR. SULLIVAN: And, Your Honor, I was going to say
17 that I have conferred with my co-counsel on the government's
18 side. So we are relatively open in 2023, but I think there's
19 a preliminary question about whether this is going to remain
20 on the speedy trial docket or not.

21 THE COURT: Are you making a suggestion that the
22 complex nature of the case will affect any speedy trial
23 implications?

24 MR. SULLIVAN: I do think it is a complex case given
25 the amount of discovery, but it's really, I think, for defense

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1 counsel to decide how he wants to proceed on that.

2 THE COURT: Counsel, your opponent colleague has
3 suggested that there's some degree of complexity in the
4 government's case which might implicate the running of the
5 speedy trial calendar. Obviously, it is up to you to decide
6 whether or not, first of all, if you agree with the statement
7 of the complexity of the case. Number two, whether you're in
8 a position to waive speedy trial if we were to go out say into
9 2023.

10 MR. PEASE: Yes, Your Honor. I've had some initial
11 talks with Mr. Sullivan about that and he has represented to
12 me that there are significant volume of discovery to be
13 produced in this case. In reviewing the indictment, and based
14 on my own experience, I would anticipate a significant volume
15 and that it would meet the requirements of a complex case.
16 And so, we will waive our speedy trial and --

17 THE COURT: Let me go ahead and have the deputy
18 clerk hand this form down to you, take a look at it, and you
19 can confer with your client, and then if you're comfortable,
20 you can indicate that and we can go ahead and set the trial.

21 MR. PEASE: Thank you, Your Honor.

22 (Counsel and Defendant confers.)

23 THE COURT: The Court has observed counsel and
24 Mr. Sotomayor review the waiver of speedy trial document. The
25 Court observed counsel answer any questions that may have been

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1 evident because of the decision to waive speedy trial. And
2 the Court observed Mr. Sotomayor endorse the waiver of speedy
3 trial after consultation with his counsel.

4 Is that a fair recollection of the event, sir?

5 MR. PEASE: Yes, it is, Your Honor.

6 THE COURT: The Court will incorporate the speedy
7 trial waiver and the court documents.

8 Having done that, okay, sir, for being out of town
9 you might not understand, I've got a whole lot of availability
10 in 2023, because most of my cases are in 2022. We move things
11 pretty quickly here. So I've got a lot of availability. So
12 if you want the second week of January, I can do that. Third
13 week of January I can do that.

14 What's your preference?

15 MR. SULLIVAN: I think we would propose the third
16 week or perhaps even the end of January given the holiday
17 schedule, but we're available January or February.

18 THE COURT: How about starting on January 23, 2023.
19 It makes it easy for everyone to remember because there's a
20 lot of 23s. January 23, 2023, and we'll go ahead and book you
21 through the 31st of January. That gives you seven business
22 days to get matters done. If you meet and you're able to come
23 with some stipulations, which you believe will streamline the
24 case, we can remove a couple of days from the docket. But
25 let's go from January 23, 2023 to January 31, 2023.

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1 All right. Have we talked discovery orders at all?

2 MR. SULLIVAN: Your Honor, we have. We've provided
3 defense counsel with the standard discovery order for the
4 district. I think we're in the process of getting a
5 resolution on that. I anticipate that immediately after the
6 arraignment hearing the government will submit something to
7 the Court through the ECF system.

8 THE COURT: Let's have a date certain on that.
9 Let's get something submitted no later than close of business,
10 August 1st.

11 MR. SULLIVAN: As far as completing discovery orders
12 or submitting the discovery order.

13 THE COURT: Discovery order.

14 MR. SULLIVAN: Okay. We anticipate doing it over
15 the next day or so.

16 THE COURT: Okay. All right. The law clerk who is
17 responsible for this case is Mr. Golden. Marlan, raise your
18 hand. If you need to communicate with the Court through
19 anyway, just go through Mr. Golden. He's very good at what he
20 does.

21 MR. SULLIVAN: Secondly, Your Honor, just to give
22 the Court a heads up, we anticipate filing a motion for a
23 protective order that hopefully will be by consent with
24 defense counsel. The purpose of the protective order is
25 because of the volume of discovery. I do like to try and be

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1 comprehensive early in the production, including early
2 production of Jencks material. The material, though, has a
3 lot of personal identifying information and sensitive
4 proprietary information because it's a procurement-related
5 case. And so, the protective order we'll just provide a
6 parameter about how the parties can use and disseminate the
7 information.

8 THE COURT: Counsel, you don't anticipate any
9 difficulty with that, do you?

10 MR. PEASE: Not at all. I've talked with
11 Mr. Sullivan. I think we've reached an agreement.

12 THE COURT: Very good. Okay. I think the next
13 thing that we need to do is evaluate his conditions of
14 pretrial release. We have someone from the probation
15 department that's provided an addendum to pretrial services.
16 It appears that things are going in the right direction.

17 Does the government have any desire to change the
18 conditions of bond?

19 MR. SULLIVAN: No, Your Honor. We defer to the
20 Court about -- we would propose an unsecured bond, as far as
21 the amount. Again, we defer to the Court about that.

22 THE COURT: Okay.

23 MR. PEASE: Yes, Your Honor. The one concern -- one
24 area that we have a disagreement with the recommended
25 conditions relates to the condition that Mr. Sotomayor no

1 longer be involved in running his business. He's -- he
2 operates a sole proprietorship. It's the source of income for
3 him and his family. He employs his wife and two children.
4 And there's a recommendation in the pretrial services report
5 that he no longer be permitted to work.

6 THE COURT: What is the nature of his business?

7 MR. PEASE: He is -- basically he provides
8 consulting administrative services in connection with
9 contractors. He's basically subcontracting services to
10 businesses that have government contracts. He's -- he was
11 with the U.S. Air Force for 30 years. He retired as a
12 colonel. And since that time, he's been working in various
13 functions. He has a masters degree in industrial engineering.

14 THE COURT: Is any of his business implicated -- I'm
15 trying to be delicate as I ask this question -- is any of his
16 business dealings implicated by the nature of the offense that
17 he's charged with?

18 MR. PEASE: So the indictment, Your Honor, charges
19 bribery and services fraud in connection with the government
20 contracting officer who left government service in 2017. So
21 the allegations in the indictment relate to conduct that
22 allegedly occurred between 2014 -- 2013 and 2017. The
23 contract, as I understand it, sense this contracting officer
24 left government service, it's my understanding that there had
25 been additional contract modifications since that time and

1 that services by one of the companies are still being
2 provided. That the Air Force continues to award contracts,
3 even though the alleged conduct ended five years ago. So our
4 contention is the charges in this case relate to conduct five
5 to eight years ago and should not preclude -- and, of
6 course -- and one condition of pretrial release is going to be
7 that he's not to engage in any criminal conduct. To the
8 extent the government has concerns about ongoing issues or
9 conduct, I think those are already addressed by what the
10 standard conditions of release --

11 THE COURT: What are the revenues that Mr.
12 Sotomayor, on a yearly basis, generates through his business
13 deals -- his current business deals?

14 MR. PEASE: May I check with my client, Your Honor?

15 THE COURT: Sure.

16 (Counsel and Defendant confers.)

17 MR. PEASE: So, Your Honor, it's my understanding
18 that it varies. During COVID, it was very minimal. Last year
19 Mr. Sotomayor estimates business revenues were approximately
20 \$1 million in gross receipts.

21 THE COURT: And you say he has his wife employed and
22 his two children are employed by the company?

23 MR. PEASE: Yes. That's right, Your Honor.

24 THE COURT: Are these adult children?

25 MR. PEASE: Yes.

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1 THE COURT: I'll hear from the government. You know
2 the bottom line is in these cases, Mr. Sullivan, there's a
3 presumption of innocence until he's proven guilty beyond a
4 reasonable doubt. And as counsel has indicated that, as far
5 as he knows, there are no circumstances implicating the
6 foundation of the alleged offense with what Mr. Sotomayor is
7 doing now. And I'm not of the mind to essentially make his
8 family destitute because of their inability to run their
9 company unless you can provide me with something else to
10 suggest that that's something you're concerned about.

11 MR. SULLIVAN: Thank you, Your Honor. We appreciate
12 the Court's concern and understand the point that the Court is
13 making. Our concern is twofold. One, while serving as a
14 subcontractor consultant to a company referred to as Company B
15 in the indictment, that it has been ongoing performance. But
16 our point is that there was bribery and corruption and fraud
17 at inception.

18 Our concern is also that it's our understanding that
19 Mr. Sotomayor's entire business model revolves around
20 DOD-related contracts that, to a certain extent, involve
21 Company B. We have an ongoing investigation about some of
22 these other contracts and what we propose to defense counsel
23 is that if Mr. Sotomayor has other contracts that don't
24 involve the BBG or the Department of Defense, then I think we
25 would be agreeable to him working on those contracts.

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1 Our concern, though, is just continuing to work on
2 contracts that may be tainted by fraud and potentially
3 corruption.

4 THE COURT: Well, how much, from the government's
5 perspective, is at stake here if the defendant is found
6 guilty?

7 MR. SULLIVAN: With respect to how much he made from
8 the contracts?

9 THE COURT: Yes.

10 MR. SULLIVAN: So during, as eluded to in the
11 indictment or alleged in the indictment, during the time
12 period involving the contracting officer, Diane Sturgis, it
13 looks like Mr. Sotomayor received 5- to \$6 million. The
14 contract has been ongoing since 2017. It's my understanding
15 it was ongoing at least through 2020, and may still be
16 ongoing. So I think it's well in the worth of 5 to 6 million.

17 THE COURT: Let me ask you this, setting aside the
18 nature of the complaint, has there been any suggestion that
19 Mr. Sotomayor's company has failed to perform under the
20 contract?

21 MR. SULLIVAN: There has been performance by Company
22 B and by extension the defendant. The defendant serves as a
23 consultant and contract or subcontractor to Company B.

24 Our concern, though, is we have evidence indicating
25 that there may be fraud in connection, not just with the

1 contract alleged in the indictment, but with other DOD-related
2 contracts. We haven't had a chance to sit down with defense
3 counsel to go through some of that information, which is why
4 though we propose that if he has other contracts that don't
5 involve DOD or the Broadcasting Board of Governors, then I
6 think we would be perfectly comfortable with him working on
7 those contracts.

8 THE COURT: All right. Well --

9 MR. PEASE: May I respond, Your Honor?

10 THE COURT: You may.

11 MR. PEASE: Your Honor, as Mr. Sullivan has
12 explained, the Air Force is apparently satisfied enough with
13 the work performed under these contracts. And for the last
14 five years it continues to work with the same company. The
15 government, and presumably these agencies, are aware of this
16 case, of the issues, and the nature of the charges. And to
17 the extent there are concerns about that, there's an
18 administrative and department process that exists that the
19 government, if it decided there wasn't performance or for any
20 other reason, including the existence of the charges in this
21 case, can take action to suspend Mr. Sotomayor's ability to
22 perform or be involved in any of these contracts.

23 I think, as you mentioned, the presumption of
24 innocence here and the lack of any criminal allegations that
25 the nature of this conduct is anywhere recent than five years,

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1 suggests that Mr. Sotomayor should not be denied the ability
2 to work at this time.

3 THE COURT: Well, on balance, I believe that the
4 presumption of innocence works to Mr. Sotomayor's benefit.
5 He's got counsel now, and I'm sure that counsel will sit down
6 with Mr. Sotomayor and make sure that his approach to his
7 business will be as sterile as it can be under the
8 circumstances because of, as you pointed out, the
9 responsibility to adhere to the rules and not violate the laws
10 of the United States or the Commonwealth of Virginia. So I'm
11 going to go ahead and allow him to work.

12 But what I'm going to do with you counsel is request
13 that you have a really good sit down with him and let him know
14 that this is not a carte blanche to do anything that he
15 chooses to do in the nature of his business. And if anything
16 is close to the line, he either needs not to be involved or
17 get one of his family members to be the lead person as far as
18 resolution of any issues associated with any contract that may
19 be implicated either directly or indirectly with what he's
20 charged with.

21 MR. PEASE: Understood, Your Honor.

22 THE COURT: I'll leave it to your good office to do
23 that. So I will allow him to continue to work. I think the
24 concern is number 5, no self-employment and all employment
25 must be approved in advance by pretrial services. That is the

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1 one that you're concerned with?

2 MR. PEASE: Yes, it is, Your Honor. There's another
3 as well that I would like to discuss.

4 THE COURT: Not open any new lines of credit.

5 MR. PEASE: No. The other concern is that his
6 travel be restricted to the Metropolitan D.C. area. As a
7 result of the work he is doing, he has reason to need to
8 travel throughout the U.S.

9 THE COURT: Would he be leaving the country?

10 MR. PEASE: No. He's prepared to surrender his
11 passport and he understands he will not be permitted to leave
12 the United States.

13 THE COURT: What areas are we talking about? Are we
14 talking about the East Coast or are we talking about more?

15 MR. PEASE: To my understanding throughout the
16 country. He owns a property in Texas. He performs -- his
17 children -- one lives in Louisiana. He has another daughter
18 in the Hampton Roads area in Virginia. He needs to travel to
19 Philadelphia to my office to meet with me.

20 THE COURT: Does he have any criminal record?

21 MR. PEASE: He has no criminal record, Your Honor.
22 None. 30 years of service. He retired as a colonel. He has
23 an unblemished record.

24 THE COURT: All right. Well, again, the presumption
25 of innocence works to your client's advantage and so I will

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1 allow him to travel within the United States of America.

2 Where is his passport?

3 MR. PEASE: It's on his person. He has it.

4 THE COURT: Why don't we go ahead and -- does the
5 probation office take that or does the United States take
6 that?

7 MR. SULLIVAN: It would go to pretrial services, but
8 what I would propose, because I have run into this issue, it
9 is sometimes very difficult to get the passport back at the
10 end of the process. I'm okay if defense counsel wants to hold
11 the passport for --

12 THE COURT: Okay. He's an officer of the court.
13 So, sir, we're going to let you be the custodian of the
14 passport.

15 MR. PEASE: Thanks. Okay, Your Honor. Thank you.
16 Yes.

17 THE COURT: All right. Do you have the passport
18 with you, Mr. Sotomayor?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. Hand it to counsel. And Counsel,
21 you now understand your obligation with regard to that?

22 MR. PEASE: I do, Your Honor.

23 THE COURT: Thank you. All right.

24 MR. SULLIVAN: Just lastly, Your Honor, on the
25 conditions. It's still unclear to us whether he has notified

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1 employers, including the DOD and the Broadcasting Board of
2 Governors regarding the charges. It sort of dovetails as to
3 --

4 THE COURT: As I understand the way that works is
5 he's got an obligation to do that under the rules and the
6 process for him being de-authorized, for lack of a better way
7 of doing it, is a very long and cumbersome process, but the
8 process starts with him putting them on notice that he has got
9 some circumstances that may be of concern to the contract.

10 MR. SULLIVAN: Understood. Thank you.

11 THE COURT: So make sure he understands that,
12 Counsel.

13 MR. PEASE: Yes, Your Honor.

14 THE COURT: All right. We're going to amend the
15 previous conditions of setting conditions of release. What
16 you'll see on the form, sir, is the condition 5 that had been
17 previously incorporated, we're going to strike through that.

18 THE DEPUTY CLERK: You want me to cross these out?

19 THE COURT: Just redo it. Make it cleaner.

20 The deputy clerk has to do some administrative
21 things which will take a couple three minutes, so. This is a
22 due process form that typically is provided in the initial
23 arraignment in front of the magistrate judge, but because
24 we're doing it here, he needs to sign it here.

25 (Counsel and Defendant confers.)

1 (A pause in the proceedings.)

2 THE COURT: Mr. Sotomayor, these are the conditions
3 of pretrial release. Review them with your counsel. And if
4 they are satisfactory to you, those are the obligations that
5 you're adherent to.

6 (Counsel and Defendant confers.)

7 THE COURT: Counsel, we're going to put one more
8 interlineation on it. We need to put a date on it. It
9 doesn't affect anything, but we need to date it.

10 Mr. Sotomayor, do you understand the conditions of
11 pretrial release and are you willing to remain adherent to
12 those things?

13 THE DEFENDANT: Certainly.

14 THE COURT: Make sure that you stay in contact with
15 the probation department and essentially anything that they
16 tell you to do, it is your obligation to do. Pretrial release
17 is grace. And so, you don't get to negotiate or anything like
18 that. You have to do what the probation officer tells you to
19 do, as long as it's reasonable and legal.

20 Do you understand that, sir?

21 MR. PEASE: Affirmed, sir.

22 THE COURT: All right, sir. Thank you. You may
23 have a seat. Is there anything else we need to do?

24 MR. SULLIVAN: Not from the government. Thank you.

25 MR. PEASE: Thank you, Your Honor.

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1 THE COURT: All right. We welcome you in your pro
2 hac vice motion. It will give you an opportunity to say that
3 you practiced in the rocket docket and experienced all the
4 benefit and grace that it provides.

5 MR. YORK: I'm looking forward to it, Your Honor.
6 Thank you.

7 THE COURT: Okay. We're adjourned.

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9 **(Proceedings adjourned at 11:08 a.m.)**

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Arraignment hearing in the case of the **UNITED STATES OF AMERICA versus JULIO R. SOTOMAYOR**, Criminal Action No.: 1:22-cr-122, in said court on the 21st day of July, 2022.

I further certify that the foregoing 22 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this August 30, 2022.



Tonia M. Harris, RPR
Official Court Reporter